

EXHIBIT 3

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CERTIFIED COPY

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JUSTIN CODY HARPER,)	Case No.
)	5:23-cv-00695-
Plaintiff,)	SSS-DTBx
)	
vs.)	
)	
CITY OF REDLANDS, REDLANDS)	
POLICE DEPARTMENT, POLICE)	
OFFICER KOAHOU, and DOES)	
1-10,)	
)	
Defendants.)	
_____)	

DEPOSITION OF JOSEPH GARCIA

Remote Deposition

Tuesday, August 13, 2024

Reported by:
Glinda F. Banks
CSR No. 11984
JOB No. 24-140090A

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1 feet the whole time, or was he off of his feet
2 literally being drug down the driveway? Describe
3 that for me in further detail if you can.

4 A. He was holding onto the door handle trying
5 to keep up with the vehicle as it was going in
6 reverse. And his feet were kind of skipping across
7 the ground.

8 Q. Okay. It then states next: Garcia jumped
9 out of his truck and ran to help Salazar. As he
10 ran up to Harper in the stolen Honda, he could tell
11 the emergency brake on the car was still on because
12 the front wheels were spinning and pushing the car
13 backward, but the back wheels were locked and not
14 rolling, which kept the car from accelerating as
15 fast as it could have.

16 Do you see that language?

17 A. I do.

18 Q. Now, when you say the front wheels of the
19 Honda were spinning, are we literally talking about
20 breaking rubber, hearing --

21 A. Smoking, spinning, breaking rubber, yes
22 sir.

23 Q. So you heard tires shrieking and so forth
24 as a vehicle will do sometimes --

25 A. Absolutely, yes, sir.

1 A. That's correct.

2 Q. Next it states in your statement: Harper
3 placed the car in drive and tried to accelerate
4 forward, but the emergency brake was still
5 activated. Garcia watched as Harper frantically
6 pushed buttons in the car and looked for the
7 emergency brake release.

8 So as you were -- when you made these
9 observations seeing Harper put the car in drive and
10 reaching around and trying to manipulate buttons,
11 were you looking into the passenger side of the
12 Honda?

13 A. Yes, sir, that is correct.

14 Q. You so you were able to visualize these
15 actions by Mr. Harper as he's in the driver's seat
16 of that Honda; correct?

17 A. That is correct.

18 Q. Were you saying anything to Mr. Harper
19 during this time you are making these observations
20 and trying to pull on door handle to get in?

21 A. I was yelling at him to stop.

22 Q. Was he saying anything back to you?

23 A. No, sir.

24 Q. And at the time that you see the car being
25 placed into drive and start to accelerate forward,

1 were you able to see where Mr. Salazar was at that
2 point in time?

3 A. Mr. Salazar was still on the driver's
4 side. I don't know if he was hanging onto the
5 door, but he was right at the door.

6 Q. Okay. Next paragraph down on RPD1193 it
7 states: Suddenly Harper accidentally hit the
8 button to unlock all the car doors. Garcia pulled
9 the front passenger door open, leaned into the car,
10 and punched Harper three times in the side of his
11 head.

12 Do you see that?

13 A. I do.

14 Q. And is that your recollection? For
15 example, did you hear like the car door unlock as
16 you sometimes do when someone hits the button to
17 open it?

18 A. I did. I just happened to be pulling on
19 the handle while he hit that button, and it opened
20 right up.

21 Q. And it says: After punching Harper,
22 Garcia grabbed hold of Harper and told him to shut
23 the car off. Harper elbowed Garcia to try to get
24 Garcia to let go, but Garcia held on. Garcia told
25 me he hit Harper because Harper was being violent

1 with him and Salazar and because he did not know if
2 Harper had any weapons on him.

3 I want to break that down little bit. It
4 says you pulled the car door open, and you struck
5 Harper three times to the side of his head. Do you
6 see that language?

7 A. I do.

8 Q. Does that comport with your recollection
9 of the events on the day of the incident?

10 A. Yes.

11 Q. Where were you striking Mr. Harper? You
12 said the side of the head. This is some gesturing
13 on the camera right now.

14 A. On the right side of his face.

15 Q. Did -- as you were striking him
16 approximately those three times, did you say
17 anything to him?

18 A. I was telling him to stop.

19 Q. Did he say anything in response to your
20 striking him or your commands to him to stop?

21 A. I don't remember.

22 Q. It notes that Harper tried to elbow you to
23 get you to let go, but you held on. Do you see
24 that language?

25 A. Yes, sir.

1 Q. So break down the sequence of events to me
2 as best as you can, Mr. Garcia. It appears you
3 pulled the door open, struck Mr. Harper
4 approximately three times, were yelling at him to
5 stop. And then apparently you grabbed onto
6 Mr. Harper someplace on his body. Is that correct?

7 A. Correct. I jumped into the vehicle and
8 first tried to throw the car into park. He put the
9 car back into drive. That's when I punched him. I
10 kept punching him because we were fighting to get
11 the car from park to drive.

12 Q. I see.

13 A. And in that time he was trying to elbow me
14 to get me away from him.

15 Q. When you say -- I'm sorry. If I can
16 interrupt you for one second.

17 When you say you jumped into the car, did
18 you physically get into the passenger side seat of
19 the vehicle?

20 A. Yes, sir.

21 Q. Okay. So your butt was literally in the
22 passenger seat as you are engaged with this
23 struggle with Mr. Harper over control of the
24 vehicle?

25 A. My knees are on the passenger seat, and my

1 to your actions of having him in a headlock at that
2 point in time; is that correct?

3 A. That is correct.

4 Q. All right. When you heard Officer Koahou
5 give you that command, what did you do, sir?

6 A. I immediately let go of the gentleman and
7 rolled out of the car.

8 Q. And where was Officer Koahou located, if
9 you can describe to me or orient me, as far as
10 where he was standing at the time that he gave you
11 that command to let go of Mr. Harper?

12 A. He was on the driver's side in line with
13 the door -- in line with the driver door of the
14 Honda.

15 Q. And was the driver's side door of the
16 Honda open or closed at the time that Officer
17 Koahou gave that command to you to let go of
18 Mr. Harper?

19 A. I believe it was closed.

20 Q. Was the driver side window down or up to
21 your knowledge at the time that Officer Koahou gave
22 you that command to let go of Mr. Harper?

23 A. Up.

24 Q. Nevertheless, you were still able to hear
25 that command by Officer Koahou to let go of

1 he wasn't in the immediate. He was towards the
2 back of the driver's side of the vehicle.

3 Q. Okay. How many times did he tell you to
4 let Mr. Harper go, if you recall?

5 A. I believe only one time.

6 Q. Did you ever respond to that person
7 verbally?

8 A. I did not.

9 Q. Did you listen to that person and let
10 Mr. Harper go?

11 A. I did not.

12 Q. So it wasn't until Officer Koahou told you
13 to let Mr. Harper go that you released your
14 physical hold on him and got out of the vehicle.
15 Is that true?

16 A. That is correct.

17 Q. After Officer Koahou told you to let
18 Mr. Harper go and you released Mr. Harper and got
19 out of the car, what occurred next?

20 A. I rolled out of the vehicle. And the
21 officer told him to get out of the vehicle.

22 Q. So Officer Koahou told Mr. Harper to get
23 out of the black Honda?

24 A. That's correct.

25 Q. And I'm going to refer your attention back

1 to your statement on RPD1193 at this time. Koahou
2 stood in front of the open driver's door, drew his
3 taser, and told Harper, "Shut the car off or I'm
4 going to tase you!"

5 Do you see that?

6 A. I do see that.

7 Q. You know what, let me go back. I
8 apologize.

9 The paragraph right above that. Garcia
10 complied and as soon as Garcia let go of Harper,
11 Harper engaged the car again and tried to
12 accelerate forward. Koahou ordered Harper to shut
13 the car off, but Harper refused to comply. Garcia
14 ran around the car and stood on the front driver
15 side of the car by the bumper.

16 Do you see that language?

17 A. I do.

18 Q. Now, when you say you ran around the car,
19 can you describe that for me? Were you on the
20 passenger side and you went around the front of the
21 car? Did you go around --

22 A. I was on the passenger side, and I ran
23 around the rear end of the car to get to the
24 driver's side where my brother was standing.

25 Q. And was your brother still -- at the time

1 Q. Okay. And you were standing between the
2 officer and the rear of the Honda, the rear bumper;
3 is that correct?

4 A. Yes, sir.

5 Q. So that would be to Officer Koahou's right
6 side; is that correct?

7 A. That's correct.

8 Q. And then going down to the statement that
9 I read previously: Koahou stood in front of the
10 open driver's door, drew his taser, and told
11 Harper, "Shut the car off or I'm going to tase
12 you!"

13 Do you see that language?

14 A. I do.

15 Q. How many times did Officer Koahou make
16 that statement if you recall? Was it just the
17 once?

18 A. I do not recall.

19 Q. Was there any statement made by Mr. Harper
20 in response to Officer Koahou's order to shut the
21 car off?

22 A. I do not recall that neither.

23 Q. Okay. So it says: Harper refused to
24 comply, so Koahou deployed his taser at Harper,
25 causing Harper to shake and stop trying to

1 accelerate for about five seconds. Harper yelled
2 out, "Ok! Ok!" making Garcia think Harper was done
3 resisting.

4 So Koahou yells to Harper to shut off the
5 car, I'm going tase you. Did the car turn off?
6 Did you hear the engine go to the off position?

7 A. No, sir, it did not turn off.

8 Q. How long was it after Officer Koahou
9 warned --

10 Hang on one second. My screen has gone
11 completely blank now. There we go.

12 So let me go back to my question for you,
13 Mr. Garcia.

14 How long was it after Officer Koahou
15 warned Mr. Harper that he was going to tase him if
16 he didn't shut the car off before you heard what
17 sounded to you like the taser going off?

18 A. I would say just a couple seconds. Maybe
19 five seconds.

20 Q. And what did you hear that caused you to
21 believe that Officer Koahou had used his taser on
22 Mr. Harper?

23 A. I heard the suspect screaming or yelling
24 to stop.

25 Q. Did you hear any kind of a clicking

1 type --

2 A. I did hear the instrument. I heard him
3 being tased.

4 Q. Okay. And you heard Harper say stop; is
5 that correct?

6 A. That's correct.

7 Q. How many times did he say stop to the best
8 of your recollection?

9 A. I believe he was saying okay, stop, okay
10 stop. He said it a couple times to my
11 recollection.

12 MR. TOUCHSTONE: Okay. All right. I'm
13 going to take a quick pause here for that break
14 that I promised you, Mr. Garcia. We are at 11:15.
15 Let's take about ten minutes. Is that okay with
16 you, sir?

17 THE WITNESS: That's fine.

18 MR. TOUCHSTONE: Let's go off the record
19 at this time.

20 (Brief recess taken.)

21 BY MR. TOUCHSTONE:

22 Q. Before the break, Mr. Garcia, we were
23 going over your statement with you. I wanted to
24 continue with that. All right, sir?

25 A. Okay.

1 Q. About three to five seconds later it
2 appears that Mr. Harper was able to disengage the
3 car as emergency brake and car started accelerating
4 forward extremely fast is the verbiage.

5 Can you quantify that for me? Did the
6 wheels -- were they spinning and the car takes off
7 quickly?

8 A. Yes, the front wheels were spinning, and
9 the back tires were locked up. And then all of a
10 sudden the car's back wheels released, and the car
11 lurched forward.

12 Q. When the car lurched forward, do you
13 recall where your brother, Mr. Guerra, was standing
14 at that time?

15 A. He was in the front still, in the front of
16 the vehicle to the -- off to the driver's side.

17 Q. Was he directly in front of the front
18 fender of the Honda at the time it lurched forward?

19 A. Yes, sir. He was directly in the line
20 with the front driver wheel.

21 Q. Did you see whether or not your brother
22 was struck by the Honda as it lurched forward?

23 A. He was not struck.

24 Q. Did your brother -- in response to the
25 vehicle lurching forward, did he move in any way

1 to, for example, try to get out of the way of the
2 car?

3 A. He did. He moved to his right or moved to
4 the east to get out of the way of the vehicle.

5 Q. All right. When you say he moved, what do
6 you mean?

7 A. He sidestepped, just shuffled to the
8 right.

9 Q. Did he do that slowly, quickly, or some
10 other speed?

11 A. Extremely quickly.

12 Q. Next you state: Koahou fired his gun at
13 Harper two times in rapid succession shooting
14 through the driver's door window and causing it to
15 break. Harper swerved the car to the right,
16 narrowly avoiding hitting Koahou, Garcia, and
17 Corey, or Mr. Guerra, your brother. The car
18 accelerated fast in a southwest direction toward
19 the end of the cul-de-sac on Nathan Court.

20 Do you see that?

21 A. I do.

22 Q. Okay. Now it says narrowly avoiding
23 hitting Koahou, Garcia, and Corey. As the car
24 moved forward, how close did it get to you,
25 Mr. Garcia?

1 A. I would say -- I was not in the immediate
2 path of the vehicle. I was off to the side. I was
3 about 8 to 10 feet away from the vehicle.

4 Q. Okay. I'm going to now show you another
5 video. I'm going to stop sharing my screen. Give
6 me a second to get this up here.

7 You see a frozen screen of a video right
8 now?

9 A. I do.

10 MR. TOUCHSTONE: This is Bates 886. We'll
11 attach this as Exhibit 3 to your deposition,
12 Mr. Garcia.

13 (Defendants' Exhibit 3 was marked for
14 identification.)

15 BY MR. TOUCHSTONE:

16 Q. I will represent to you this is a video
17 that was created by a bystander of the incident.
18 Can you -- I wish could I make it bigger, but I
19 don't know how to do that. Can you see where my
20 cursor is hovering around here?

21 A. I can.

22 Q. I'm pointing at a black vehicle. That is
23 the black Honda that we were talking about here?

24 A. Yes, sir.

25 Q. We have been discussing for about the last

1 Q. Next in your statement says: Once
2 Harper's vehicle came to a stop, the driver's door
3 opened, and Harper jumped out as if preparing to
4 run again. Before Harper could run, he collapsed
5 onto the ground. Garcia did not see if or where
6 Koahou's gunshot hit Harper, but he believed it did
7 because of how Harper was unable to stand and fell
8 to the ground.

9 Do you see that language?

10 A. I do.

11 Q. All right. So you are able to visualize
12 all this as it's happening, is that correct,
13 Mr. Harper getting out of the car and attempting to
14 run and then falling to the ground?

15 A. Correct.

16 Q. All right. How far away were you from the
17 Honda when you observed Mr. Harper attempt to get
18 out and run away again?

19 A. Maybe 150 to 200 feet.

20 Q. Despite that distance you were able to
21 clearly observe these actions that we just
22 described?

23 A. We had moved our way to the northbound of
24 San Bernardino Road and were standing on the curb
25 observing what was going on to the west of us. I

1 observed the door open up and him try to get out of
2 the vehicle and fall straight to the ground.

3 Q. What did you see happen next with respect
4 to Mr. Harper?

5 A. I saw him lay on the ground and kind of
6 flop around like a fish out of water, rolling
7 around on the ground. And he was screaming.

8 Q. Did you see whether or not Mr. Harper was
9 approached by any police officers at that time?

10 A. I don't recall what happened after that as
11 far as the police officers approaching him.

12 Q. Did you observe Mr. Harper get handcuffed?

13 A. I do not recall that neither.

14 Q. Okay. Did you -- strike that.

15 Do you recall hearing any commands that
16 sounded like they may have come from a police
17 officer such as show me your hands or get on your
18 stomach or anything of that sort?

19 A. I do not recall that, sir.

20 Q. Okay. How close did you approach to the
21 location where Mr. Harper was on the ground?

22 A. I never got any closer than that 150 to
23 200 feet.

24 Q. Did Officer Koahou give you any commands
25 like I need to you stay back or anything of that